92-686

No. _____

Supreme Court, U.S.
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IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1992

COUNTY OF INYO
and COUNTY OF INYO
on behalf of DANIEL P., a Minor

Petitioners,

v.

ROBERT GUTIERREZ,

Respondent.

PETITION FOR WRIT OF CERTIORARI

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California
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QUESTION PRESENTED

1. Does federal law grant a state court jurisdiction to determine paternity against a reservation Native American where there is no tribal court and where the paternity issue arises in an action to pursue the collection of child support and AFDC reimbursement as part of the federally mandated child support enforcement program?

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Petitioner, the County of Inyo, State of California, and the County of Inyo on behalf of minor Daniel P., prays that a writ of certiorari issue to review the judgment and opinion of the State of

California Court of Appeal, Fourth District, Division Two, issued on April 29, 1992.

OPINIONS BELOW

The unpublished opinion of the California Court of Appeal, Fourth Appellate District, Division Two, appears as Appendix A.

The unpublished order of the California Supreme Court, denying discretionary review, appears as Appendix B.

JURISDICTION

Petitioner invokes the jurisdiction of this Court, under Title 28, United States Code, section 1257 (3) to review a judgment of the California Court of Appeal, Fourth Appellate District, Division Two, which was filed on April 29, 1992. The decision of the state intermediate appellate court is a final decision. The California Supreme Court,

on July 16, 1992, refused to exercise discretionary review of the intermediate state appellate court's decision. This petition is filed within the required 90-day period following the date of the highest state court's refusal to review. (See, American Railway Express Co. v. Levee, 263 U.S. 19, 20-21 (1923).)

STATUTORY, CONSTITUTIONAL, AND LOCAL COURT RULES INVOLVED

Title 28, United States Code, section 1360, states as follows:

"(a) Each of the States listed in the following table shall have jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country listed opposite the name of the State to the same extent that such State has jurisdiction over other civil causes of action, and those civil laws of such State that are of general application to private persons or private property shall

have the same force and effect within such Indian country as they have elsewhere within the State:

State of	*Indian country affected*
Alaska	All Indian country within the State
California . .	All Indian country within the State
Minnesota . .	All Indian country within the State, except the Red Lake Reservation
Nebraska . . .	All Indian country within the State
Oregon	All Indian country within the State, except the Warm Springs Reservation
Wisconsin . .	All Indian country within the State

(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal

treaty, agreement, or statute or with any regulation made pursuant thereto; or shall confer jurisdiction upon the State to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein.

(c) Any tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band, or community in the exercise of any authority which it may possess shall, if not inconsistent with any applicable civil law of the State, be given full force and effect in the determination of civil causes of action pursuant to this section."

In Appendix C:

Title 18 U.S.C. section 1162.

Title 25 U.S.C. section 1902.

Title 42 U.S.C. section 601.

Title 42 U.S.C. section 602(a)(27).

Title 42 U.S.C. section 651.

Title 42 U.S.C. section 654(4)(A), (6)(A), (9)(A), (13).

Title 42 U.S.C. section 666(a)(5)(A)(i).

California Civil Code section 196(a).

California Civil Code section 248.

California Civil Code section 7006.

California Evidence Code section 892.

California Welfare and Institutions Code section 11350(a),(b).

California Welfare and Institutions Code section 11350.1(a).

California Welfare and Institutions Code section 11475.1(a).

STATEMENT OF THE CASE

In the California state trial court, a civil action was filed by petitioner, County of Inyo, and the County of Inyo on behalf of minor Daniel P., to obtain a determination of paternity and orders for ongoing child support and reimbursement of public assistance (Aid to Families with Dependent Children [AFDC]) against Respondent Robert Gutierrez. Petitioner also sought to compel respondent to submit to blood tests to determine paternity.

In the state trial court proceedings, respondent Gutierrez asserted as an affirmative defense that the state court and agencies lacked jurisdiction to establish paternity or enforce child support orders against him. Respondent alleged this was because he, the child and the child's mother, were members of a federally recognized Native American tribe, the Big Pine Band of Paiute-

Shoshone Native Americans, and resided on its reservation. Respondent denied that he was the father of Daniel P. Respondent did not present any evidence showing the Big Pine Band had a tribal court or any other mechanism to determine paternity.

Both petitioner and respondent asked the trial court to take judicial notice of the pleadings filed in another matter, County of Inyo v. Jeff, 227 Cal.App.3d 487, 277 Cal.Rptr. 841 (1991), review denied by the California Supreme Court on April 18, 1991. In Jeff, the same trial court found that a state court has jurisdiction to order a member of a federally recognized Native American tribe living on a reservation to reimburse the county for AFDC paid to support her child. The trial court's ruling in Jeff was affirmed by the same state intermediate appellate court involved here. In Jeff, the appellate court focused on the

jurisdictional grant over civil actions involving Native Americans given by Congress to California under Title 28, United States Code, section 1360(a). The appellate court reasoned that where the county is enforcing a private right to collect child support, the action can be considered as private in substance and thus within the jurisdiction of the state court under the authority of Title 28, United States Code, section 1360(a). (See, County of Inyo v. Jeff, supra, 227 Cal.App.3d 487, 277 Cal.Rptr. 841.)

In the instant matter against respondent Gutierrez, the state trial court incorporated its prior ruling in Jeff that AFDC reimbursement may be sought from Native Americans living on a reservation. From this prior ruling, and from the fact that the determination of paternity is an essential part of the collection of AFDC reimbursement, the

trial court concluded that blood tests may be used in determining paternity against a reservation Native American. Specifically, the trial court ruled that the provisions of California Evidence Code section 892 [Order for blood tests in civil action involving paternity] may be used in determining paternity against a reservation Native American.

In accordance with its ruling, the trial court ordered respondent Gutierrez to submit to blood testing. The blood tests indicated there was a 99.97% probability that respondent Gutierrez was the father of Daniel P. Based on this blood test evidence, the trial court decided respondent Gutierrez was the father of Daniel P. The trial court also found that respondent Gutierrez had the duty to support Daniel P. The trial court reserved the issue of the amount of child support.

An appeal was taken to the intermediate state appellate court by respondent Gutierrez. The Court of Appeal, Fourth Appellate District, Division Two, asked respondent Gutierrez to supplement the record on appeal with a copy of the Big Pine Paiute/Shoshone tribal ordinance. In response, Respondent Gutierrez filed a copy of the Tribal Constitution and Enrollment Ordinance. Those documents do not authorize the creation of a tribal court to deal with paternity issues or provide for any other mechanism to determine paternity. On April 29, 1992, the intermediate state appellate court issued its unpublished decision, reversing the judgment of paternity and order for reimbursement of child support. The intermediate state appellate court held that the determination of paternity is within the area of traditional tribal control and

that the trial court's exercise of jurisdiction to determine paternity against respondent Gutierrez interfered with tribal self-governance. The appellate court further held that a county seeking a declaration of paternity and reimbursement of welfare aid must first prove there is no tribal court or other mechanism that can decide the issue of paternity.

Petitioner County of Inyo filed a petition for review with the California Supreme Court, asking that it exercise its discretionary jurisdiction to review the decision of the intermediate state appellate court. By order dated July 16, 1992, California's highest court refused to grant review.

HOW THE FEDERAL QUESTION IS PRESENTED

The issue of jurisdiction of and regulation over Native Americans is a matter of federal law. (See, Public Law 280, codified at Title 18 U.S.C. section 1162 and Title 28 U.S.C. section 1360; see also, California v. Cabazon Band of Mission Indians, 480 U.S. 202 (1987); Rice v. Rehner, 463 U.S. 713 (1983).)

By reason of his status as a reservation Native American, respondent Gutierrez challenged the jurisdiction of the state trial court over the paternity action against him. His challenge was unsuccessful and the state trial court entered a judgment of paternity and order for reimbursement of child support against him. Respondent Gutierrez appealed from this judgment solely on the jurisdictional issue. While petitioner County of Inyo stressed that federal statutes granted the state trial court jurisdiction over the

paternity action and that the balancing of state, federal and tribal interests supported the exercise of such jurisdiction, the intermediate state appellate court agreed with respondent that the lower court lacked jurisdiction over this matter.

Petitioner County of Inyo timely filed a petition for review with the California Supreme Court, requesting that the state's highest court review the intermediate appellate court decision. Petitioner's request for discretionary review was denied by California's highest court. Petitioner now respectfully asks this Court to grant certiorari to address the jurisdictional issue presented in this matter.

ARGUMENT

FEDERAL LAW GRANTS A STATE COURT JURISDICTION TO DETERMINE PATERNITY AGAINST A RESERVATION NATIVE AMERICAN WHERE THERE IS NO TRIBAL COURT AND WHERE THE PATERNITY ISSUE ARISES IN AN ACTION TO PURSUE THE COLLECTION OF CHILD SUPPORT AND AFDC REIMBURSEMENT

In this state civil case, the California Court of Appeal, Fourth District, Division Two, reversed the judgment of paternity against respondent Gutierrez, holding that the trial court lacked subject matter jurisdiction. The state Court of Appeal held that the determination of paternity is within the area of traditional tribal control and that the trial court's exercise of jurisdiction to determine paternity against respondent Gutierrez interfered with "the tribe's ability to govern itself according to its own laws applicable to the area of domestic relations." (App. A-3.)

Petitioner submits the decision of the California appellate court is in error. The decision virtually emasculates the broad grant of jurisdiction given by Congress in Public Law 280 to California and other states over civil causes of action involving Native Americans. (See, Title 28 U.S.C. section 1360(a).) The decision also fatally conflicts with opinions of this Court explicating the balancing test of federal, state and tribal interests required to support the exercise of state jurisdiction over Native Americans. (See, Rice v. Rehner, 463 U.S. 713 (1983); New Mexico v. Mescalero Apache Tribe, 462 U.S. 324, 332 (1983).)

This Court should grant certiorari to clarify that a state trial court does have jurisdiction over paternity actions involving reservation Native Americans under the authority of Public Law 280, Title 28 United States Code section

1360(a). The resolution of this jurisdictional issue will impact not only this particular case, but potentially many other cases involving the establishment of paternity against reservation Native Americans in the State of California as well as in other Public Law 280 states. In the State of California alone, there are about 84 tribal organizations spread out in 27 counties throughout the state. Because the important jurisdictional question is bound to recur, a decision from this Court would provide necessary guidance to the state courts faced with paternity actions involving Native Americans.[1/]

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1. The jurisdictional issue presented here has been confronted by other states. The Court of Appeals of Minnesota--a Public Law 280 state like California--has a published decision on the issue: Becker County Welfare Dept. v. Bellcourt, 453 N.W.2d 543 (1990). In Becker, the paternity defendant, the mother and the child were all enrolled members of the Minnesota Chippewa Tribe and the White Earth Band of Chippewa

California is one of the states to which Congress has expressly granted jurisdiction over specified actions arising in Indian country within those states and involving Native Americans. Section 2 of Public Law 280 embodies the jurisdictional grant over criminal cases. (See, Title 18 U.S.C. section 1162.)

Native Americans and all three resided on the White Earth Reservation. The Minnesota Court of Appeal held that the state trial court had properly exercised jurisdiction pursuant to Public Law 280 over an action in which the defendant was declared to be the child's father and ordered to pay child support and AFDC reimbursement. The Court noted the constitution of the Minnesota Chippewa tribe did not authorize creation of tribal courts to deal with domestic relations matters. The Court recognized the tribe had a strong interest in self-governance and in determining the parentage of Native American children, but that "Congress cannot have intended there be no forum to execute the AFDC reimbursement program it mandates." (Becker, supra, 453 N.W.2d at p. 544.)

There are also cases from non-Public Law 280 states: New Mexico (State ex. rel. Dept of Human Services v. Jojola, 660 P.2d 590 (1983), cert. den. in 464 U.S. 803) and North Carolina (Jackson County v. Swayney, 352 S.E.2d 413 (1987), cert. den. in 484 U.S. 826).

Section 4 of Public Law 280, at Title 28 United States Code section 1360, expresses the jurisdictional grant over civil cases. In pertinent part, it provides as follows:

"Each of the States listed in the following table shall have jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country listed opposite the name of the State to the same extent that such State has jurisdiction over other civil causes of action, and those civil laws of such State that are of general application to private persons or private property shall have the same force and effect within such Indian country as they have elsewhere within the State:

State	*Indian country affected*
Alaska	All Indian country within the State
California . .	All Indian country within the State
Minnesota . . .	All Indian country within the State, except the Red

	Lake Reservation
Nebraska . . .	All Indian country within the State
Oregon	All Indian country within the State, except the Warm Springs Reservation
Wisconsin . .	All Indian country within the State (Title 28 United States Code section 1360(a).)"

From the sparse legislative history of this federal statute, this Court concluded that its intent was to redress the lack of adequate forums for resolving private legal disputes between reservation Native Americans, and between Native Americans and other private citizens by permitting the state courts to decide such disputes. (Bryan v. Itasca County, 426 U.S. 373, 383 (1976).) This Court construed section 1360(a) to grant states jurisdiction over private civil litigation involving reservation Indians in state court, but not to grant general civil regulatory activity. (Id., at pp. 385, 388-390.) Additionally, this Court stated that when a state tries to enforce a law

that is civil in nature on an Indian reservation under the authority of Public Law 280, the law is applicable only as it may be relevant to private civil litigation in state court. (California v. Cabazon Band of Mission Indians, supra, 480 U.S. at p. 208.)

The instant action falls squarely within the jurisdictional grant of Public Law 280. In compliance with both federal and state law, petitioner sought reimbursement for public welfare aid expenditures and future child support payments from respondent Gutierrez, the presumed father who had the obligation to support the minor on whose behalf welfare payments had been made. (See, Social Security Act, Title IV-D, Title 42, U.S.C. section 651 et seq.; California Civil Code sections 196(a), 248; California Welfare and Institutions Code, section 11350(a), (b).) Since a determination of paternity

is necessary for a proper consideration of the matters of child support and AFDC reimbursement (absent an admission or stipulation of paternity), petitioner also sought such a determination. The resolution of the paternity question was thus an integral part of the civil action filed by petitioner against respondent Gutierrez, a Native American.

That the action was brought by a governmental entity, the County of Inyo through its District Attorney, does not detract from the civil, private nature of the case. (See, California v. Cabazon, supra, 480 U.S. at p. 208.) Besides permitting public agencies such as the local prosecutor and the state Department of Social Services to bring an action to determine the existence of the father and child relationship, California law authorizes private parties such as a child, the child's natural mother, and the

presumed or alleged father to bring a paternity action. (See, California Civil Code, section 7006; California Welfare and Institutions Code, sections 11350.1(a), 11475.1(a).) Under California law, the minor or his mother or even respondent Gutierrez could have brought the instant paternity action. The fact it was the Inyo County prosecutor who instituted this action for Inyo County and on behalf of minor Daniel P. does not significantly distinguish this case from one where the litigation is solely between private parties. Accordingly, it is unquestionable that the paternity action here was relevant to private civil litigation and thus within the latitude of the jurisdictional grant of Public Law 280, Title 28 United States Code section 1360(a).

Further, it is clearly consistent with the legislative intent of Public Law

280 to permit the California state court to address the paternity issue in order to remedy the lack of an adequate Native American forum to resolve that question. Respondent never claimed there was a tribal court that could properly deal with the paternity issue. Respondent only claimed that merely because of his, the minor's and the mother's status as members and residents of a federally recognized Native American tribe, the state court lacked jurisdiction to decide paternity. The record is completely void of any evidence of a tribal court, law or mechanism on the Big Pine Band reservation which could determine the paternity of Daniel P. in order to allow petitioner to properly seek reimbursement of AFDC funds and child support. If the state trial court had not exercised jurisdiction over the paternity action, the issue of paternity would have remained unsolved

simply because there was no tribal court to handle the paternity question. If the state trial court lacked jurisdiction over this paternity action, petitioner would not be able to properly administer the AFDC program with its requirement of paternity establishment and enforcement of child support rights. (See, Title 42 U.S.C. sections 651, 654(4)(A), 654(6)(A), 654(9), 654(13), 666(a)(5)(A)(i).) That untolerable situation would be contrary to the jurisdictional grant of Public Law 280 and the federal statutes governing the administration of the AFDC program, which do not exclude Native American parents from state collection. The lack of a Native American tribunal to resolve the paternity issue thus lends further validity to the state court's exercise of jurisdiction as authorized by Title 28 United States Code section 1360(a).

It is evident that, because of the absence of a tribal court, there could be no jurisdictional conflict in the context of this case. Under these circumstances, it is inconceivable that the state appellate court found the determination of paternity interfered with tribal self-governance.

How can the appellate court find there is interference with tribal self-governance when it is evident that the tribe has no court or other forum to determine paternity? To reach its erroneous conclusion, the state appellate court turns to a statement -- not a holding -- made by this Court in a case involving negligence and breach of contract: Three Affiliated Tribes v. Wold Engineering, 476 U.S. 877 (1986). In Wold, this Court invalidated a North Dakota law disclaiming the pre-existing, unconditional jurisdiction extended to

tribal Native Americans suing non-Indian defendants, and replacing it with an extension of jurisdiction conditioned on the tribe's waiver of its sovereign immunity and its agreement to the application of state law in all suits to which it was a party. The opinion provides in pertinent part as follows:

> "The North Dakota jurisdictional scheme requires the Tribe to accept a potentially severe intrusion on the Indians' ability to govern themselves according to their own laws in order to regain their access to the state courts. The statute provides that `[t]he civil jurisdiction herein accepted and assumed [upon Indian consent] shall include but shall not be limited to the determination of parentage of children, termination of parental rights, commitments by county courts, guardianship, marriage

contracts, and obligations for the support of spouse, children, or other dependents.' (N.D. Cent. Code, § 27-18-08 (Supp. 1985).) Although these subjects clearly encompass areas of traditional tribal control, see Fisher v. District Court, 424 U.S., at 388-389; United States v. Quiver, 241 U.S. 602 (1916), the North Dakota statute contemplates that state civil law will control in these areas." (Wold, supra, 476 U.S. at pp. 889-890.)

The cases cited in the above-quoted passage from Wold do not support the proposition that the determination of paternity is an area of traditional tribal control. Fisher v. District Court, 424 U.S. 382 (1976), merely holds that an adoption proceeding arising on the Northern Cheyenne Indian Reservation is within the exclusive jurisdiction of the

existing Tribal Court. United States v. Quiver, supra, deals with a criminal prosecution for adultery and the opinion states that bigamy, polygamy, incest, adultery and fornication are matters which have been left to the tribal custom and laws. (Quiver, supra, 241 U.S. at p. 605.)

In any event, this Court has held that even where a certain subject is within the area of traditional tribal control, federal law does not automatically place it outside the jurisdiction of the state courts. In Rice v. Rehner, 463 U.S. 713 (1983), this Court explained the analysis to be conducted against a "backdrop" of tribal sovereignty. When the Court determines that tradition has recognized a sovereign immunity in favor of the Native Americans in some respect, then the Court is usually reluctant to infer that Congress has authorized the assertion of state

authority in that respect, except where Congress has expressly provided that state laws shall apply. The Court does not favor repeal by implication of an established tradition of immunity or self-governance. However, if the Court does not find such a tradition or if it determines that the balance of state, federal and tribal interests so require, its pre-emption analysis may give less weight to the backdrop of tribal sovereignty. (Rice, supra, 463 U.S. at pp. 718-720; see Wold, supra, 476 U.S. at p. 884.)

This Court has also stated that:

"State jurisdiction is pre-empted by the operation of federal law if it interferes or is incompatible with federal and tribal interests reflected in federal law, unless the state interests at stake are sufficient to justify the assertion

of state authority." (New Mexico v. Mescalero Apache Tribe, 462 U.S. 324, 332 (1983).)

In Mescalero, this Court explained that substantial state interests arise when the state can point to " . . . functions or services performed by the State in connection with the on-reservation activity." (Id., at p. 336.) The state's interest is particularly substantial if the state can point to off-reservation effects that require state intervention." (Ibid.)

The Rice/Mescalero balancing of interests test supports the exercise of state court jurisdiction to establish paternity in order to seek reimbursement of AFDC payments against a reservation Native-American. The purpose of the federal AFDC program, under which the state is required to determine paternity

in order to enforce child support rights, is to:

> "[encourage] the care of dependent children in their own homes or in the homes of relatives by enabling each State to furnish financial assistance and rehabilitation and other services, as far as practicable under the conditions in such State, to needy dependent children and the parents or relatives with whom they are living to help maintain and strengthen family life and to help such parents or relatives to attain or retain capability for the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection, ..." (Title 42 U.S.C. section 601.)

This purpose echoes that of the Indian Child Welfare Act (ICWA), which

deals with jurisdictional issues in certain proceedings involving Native American children -- custody, foster care and adoptive placement, but not the determination of paternity or child support. (See, Title 25 U.S.C. sections 1901 et. seq.) The express legislative purpose of the ICWA is to protect the best interests of the child and to promote the stability and security of Native American tribes and families. (Title 25 U.S.C. section 1902). This legislative policy is entirely consistent with the AFDC program and the federal interest in the establishment of paternity and enforcement of child support obligations.

The federal government and the state government are both involved in the AFDC program in what has been termed "`a scheme of cooperative federalism.'" (Shea v. Vialpando, 416 U.S. 251, 253 (1974), quoting King v. Smith, 392 U.S. 309, 316

(1968).) The AFDC program is financed largely by the federal government on a matching-fund basis; it is administered by the states. (Shea v. Vialpando, supra, at p. 253.) Federal law mandatorily requires the state to seek reimbursement of AFDC funds through the enforcement of the parent's child support obligation in order for the state to remain eligible for participation in the AFDC program. (See, Title 42 U.S.C. sections 651 et seq.) As part of the child support enforcement program, states are required, inter alia, to establish paternity and obtain child support. (See, Title 42 U.S.C. sections 602(a)(27), 654(4)(A), 654(6)(A).) Federal law requires states to establish paternity of children born out of wedlock on whose behalf AFDC payments are being made unless it is determined that it is against the best interests of the child to do so. (See, Title 42 U.S.C. section

654(4)(A).) Federal law further provides that paternity determination services shall be provided even in cases where AFDC aid is not being dispensed. (See, Title 42 U.S.C. section 654(6)(A).) Federal law further provides sanctions to the states for the failure to comply with these requirements. (See, Title 42 U.S.C. sections 603(h), 652(g) [Performance standards for State paternity establishment programs].)

It is evident that both the federal government and the state of California have a strong interest in the establishment of paternity. There is no reason for concluding that the determination of paternity of Native American children who receive AFDC benefits is excluded from the child support enforcement program. As pointed out above, the federal statutes mandating the establishment of paternity for AFDC

recipients provide for exceptions only in cases where such determination would be against the best interests of the child. This expressed concern for the best interests of the child is consistent with the purpose of the ICWA, noted above. In sum, petitioner submits the strong federal and state interests over the establishment of paternity in order to permit recoupment of AFDC benefits outweigh the Native American tribe's concern for self-governance.

Petitioner further submits any concern for tribal self-governance appears to be inappropriately invoked in this case. As already mentioned, the record is void of any indication that the tribe has a court or other mechanism available to make determinations of paternity. Under these circumstances, there is no possibility that the state would be unduly interfering with tribal sovereignty by

seeking a declaration of paternity in order to properly collect reimbursement for AFDC payments made on behalf of respondent's child.

In sum, petitioner urges this Court to grant certiorari to review the jurisdictional issue presented in this case and clarify that the California state court does have subject matter jurisdiction over a paternity action against a reservation Native American because of Public Law 280 and because of the balancing of the state, federal and tribal interests.

CONCLUSION

For the foregoing reasons, petitioner respectfully submits that the writ of certiorari should issue to review the decision of the California Court of Appeal, Fourth District, Division Two.

Respectfully submitted,

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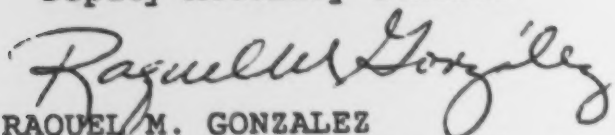

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COUNTY OF INYO, and
COUNTY OF INYO on
behalf of DANIEL P.,
a Minor
Petitioners.

v.

ROBERT GUTIERREZ,

Respondent.

I, THE UNDERSIGNED, say: I am a citizen of the United States, am 18 years of age or over, employed in the County of San Diego in which County the below stated mailing occurred, and not a party to the subject cause, my business address being P.O. Box 85266, 110 West A Street, Suite 700, San Diego, California 92186-6174.

I have caused service of the within

PETITION FOR WRIT OF CERTIORARI AND APPENDICES

To William K. Suter, Clerk, Supreme Court of the United States, Washington, D.C. 20543, an original and copies, of which a true and correct copy of the document filed in this cause is hereunto affixed; AND, by placing one copy in a separate envelope addressed for and to each addressee named below as follows: each envelope was then sealed and with the postage prepaid deposited in the United States mail by me at San Diego, California, on the 14th day of October, 1992.

Honorable Don L. Chapman
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Inyo County Superior Court
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There is a delivery service by United States Mail and/or courier service at each place so addressed or regular communication by United States Mail and/or courier service between the place of mailing and each place so addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California, October 14, 1992.

Rosemary Carmona
ROSEMARY CARMONA

Subscribed and sworn to before me
this 14th day of October, 1992.

Anne Marie Buford
Notary Public in and for said County and State

ANNE MARIE BUFORD
Notary Public—California
County of San Diego
My Commission Expires 11/19/93